



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Mr. Robert Atherton
City Attorney
City of Nacogdoches
P.O. Drawer 631248
Nacogdoches, Texas 75963-1248

OR94-602

Dear Mr. Atherton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 24471.

The City of Nacogdoches (the "city") has received a request for three categories of information relating to meetings of the city commission and its committees. Specifically, the requestor seeks:

- (1.) Minutes of City Commission meetings from 1980 to present.
- (2.) Minutes of any committee meetings with airport activity recorded.
- (3.) Any contracts pertaining to design, construction and improvements at the municipal airport at Nacogdoches, Texas.

You seek to withhold the information requested in items 1 and 2 above under section 552.101 of the Government Code in conjunction with the Texas Open Meetings Act, Government Code chapter 551. Because you do not comment on the information requested in item 3, we assume that it has been or will be made available to the requestor. See Open Records Decision No. 363 (1983).

Section 551.103 of the Government Code requires a governmental body to keep a certified agenda or to make a tape recording of an executive session. The governmental body must preserve the certified agenda or tape recording of an executive session for at least two years after the date of the meeting. Gov't Code § 551.104(a). The certified agenda or tape is available for public inspection and copying only under a court order issued pursuant to subsection (b)(3) of Government Code section 551.104. *Id.* § 551.104(c). A person who discloses the certified agenda or tape to a member of the public without lawful authority commits an offense punishable as a Class B misdemeanor and is subject to civil liability to a person injured by the disclosure. *Id.* § 551.146. On the basis of the provisions now codified as sections 551.104 and 551.146 of the Government Code, this office has concluded that the tape and certified agenda are not subject to disclosure under the Open Records Act, Attorney General Opinion JM-995 (1988), and in fact, may not even be reviewed by the attorney general pursuant to the Open Records Act, Open Records Decision No. 495 (1988).

You advise us that all of the information responsive to this request is contained in the certified agendas of executive sessions of the city commission conducted pursuant to the Texas Open Meetings Act, Government Code chapter 551. Accordingly, we conclude that this information may be released only as provided in the Open Meetings Act.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

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Ref.: ID# 24471
ID# 24485
ID# 25168

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